



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: AUGUST 29, 2022

IN THE MATTER OF:

Appeal Board No. 623549

PRESENT: RANDALL T. DOUGLAS, MEMBER

In Appeal Board Nos. 623549, 623550 and 623551, the claimant appeals from the decisions of the Administrative Law Judge filed, April 25, 2022, which sustained the initial determinations holding the claimant ineligible to receive benefits, effective May 4, 2020 through September 5, 2021, on the basis that the claimant was not totally unemployed and/or had earnings over the statutory limitation; charging the claimant with an overpayment of \$6,942 in benefits recoverable pursuant to Labor Law § 597 (4); charging the claimant

with an overpayment of \$6,942 in Pandemic Emergency Unemployment Compensation (PEUC) repayable pursuant to § 2107 (e) (2) of the Coronavirus Aid, Relief,

and Economic Security (CARES) Act of 2020; charging the claimant with an overpayment of Federal Pandemic Unemployment Compensation of \$12,600 recoverable pursuant to Section 2104 (f)(2) of the Coronavirus Aid, Relief and Economic Security (CARES) Act of 2020; charging the claimant with an overpayment of Lost Wages Assistance benefits of \$1,800 recoverable pursuant to 44 CFR Sec. 206.120 (f)(5); and reducing the claimant's right to receive future benefits by 472 effective days and charging a civil penalty of \$3,972 on the basis that the claimant made willful misrepresentations to obtain benefits

At the combined hearing before the Administrative Law Judge, all parties were accorded a full opportunity to be heard and testimony was taken. There was an appearance by the claimant.

Our review of the record reveals that the case should be remanded to hold a

hearing. The record was not sufficiently developed on the determinations. The parties should have another opportunity to submit additional testimony and other evidence on issues. At the further hearing, the Judge should question the claimant regarding the hours she worked and her earnings based on the employer's pay records for the period after April 26, 2021 (Hearing packet at pages 83-99). In addition, the claimant should be questioned regarding the June 9, 2020 telephone certification for the weeks ending May 10, May 17 and May 24, 2020 (Hearing packet at pages 103-104). These records should be entered into evidence in the appropriate manner.

The Judge should take any other additional testimony and evidence needed to complete the record.

Now, based on all of the foregoing, it is

ORDERED, that the decisions of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issues, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issue, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

RANDALL T. DOUGLAS, MEMBER